

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHARLES MCNEES, DAVID
BRESSELSSMITH, and TONEY A. WHITE,

Case No.: 2:23-cv-01121-APG-DJA

Plaintiff,

ORDER

v.

RONALD OLIVER, et al.,

Defendants.

On July 18, 2023, pro se plaintiffs Charles McNees, David Bresselsmith, and Toney A. White, inmates in the custody of the Nevada Department of Corrections, submitted a complaint under 42 U.S.C. § 1983. (ECF No. 1-1). A couple days later, the plaintiffs filed an amended complaint. (ECF No. 3). A few days after that, Bresselsmith submitted an application to proceed *in forma pauperis*. (ECF No. 5). Neither McNees nor White submitted applications to proceed *in forma pauperis*. Bresselsmith's application to proceed *in forma pauperis* is incomplete because Bresselsmith did not include a completed financial certificate and an inmate trust fund account statement for the previous six-month period with his application. The Court will deny Bresselsmith's application without prejudice and give Bresselsmith the opportunity to correct these deficiencies **by September 22, 2023**. Additionally, both McNees and White need to file fully complete applications to proceed *in forma pauperis* **by September 22, 2023**.

I. DISCUSSION

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See 28 U.S.C. § 1914(b). “Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*.” Nev. Loc. R. Prac. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the following documents to the Court: (1) a completed **Application to Proceed *in Forma Pauperis***.

1 ***Pauperis* for Inmate**, which is pages 1–3 of the Court’s approved form, that is properly
2 signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is
3 page 4 of the Court’s approved form, that is properly signed by both the inmate and a
4 prison or jail official; and (3) a copy of the **inmate’s prison or jail trust fund account**
5 **statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev.
6 Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her
7 obligation to pay the filing fee, it just means that the inmate can pay the fee in installments.
8 See 28 U.S.C. § 1915(b).

9 Although only one filing fee needs to be paid per case, if multiple plaintiffs seek to
10 proceed *in forma pauperis*, each plaintiff must qualify for *in forma pauperis* status. See
11 *Spencer v. Soc. Sec. Admin.*, No. 2:20-CV-01304-BNW, 2020 WL 5502159, at *1 (D.
12 Nev. Sept. 10, 2020).

13 As explained above, Bresselsmith’s application to proceed *in forma pauperis* is
14 incomplete. The Court will therefore deny Bresselsmith’s application to proceed *in forma*
15 *pauperis* without prejudice and grant him an extension of time to file a new fully complete
16 application to proceed *in forma pauperis* with all three required documents. McNees and
17 White also need to file fully complete applications to proceed *in forma pauperis* in this
18 case. Alternatively, Bresselsmith, McNees, and White may choose to pay the full \$402
19 filing fee for this case.

20 **II. CONCLUSION**

21 It is therefore ordered that Bresselsmith’s application to proceed *in forma pauperis*
22 (ECF No. 5) is denied without prejudice.

23 It is further ordered that McNees, Bresselsmith, and White have **until September**
24 **22, 2023**, to either pay the full \$402 filing fee or each file new fully complete application
25 to proceed *in forma pauperis* with all three required documents: (1) a completed
26 application with the inmate’s two signatures on page 3, (2) a completed financial
27 certificate that is signed both by the inmate and the prison or jail official, and (3) a copy
28 of the inmate’s trust fund account statement for the previous six-month period.

McNees, Bresselsmith, and White are cautioned that this action will be subject to dismissal without prejudice if they fail to timely comply with this order. A dismissal without prejudice allows McNees, Bresselsmith, and White to refile the case with the Court, under a new case number, when they can file complete individual applications to proceed *in forma pauperis* or pay the required filing fee.

The Clerk of the Court is directed to send Plaintiffs McNees, Bresselsmith, and White the approved form applications to proceed *in forma pauperis* for an inmate and instructions for the same and retain the amended complaint (ECF No. 3) but not file it at this time.

DATED this 26th day of July 2023.



UNITED STATES MAGISTRATE JUDGE